REMARKS

The Office Action of April 9, 2009 has been carefully reviewed and this response addresses the Examiner's concerns. Applicants respectfully request for examination and reconsideration of the claims.

I. STATUS OF THE CLAIMS

Claims 1-4 and 8-10 are pending in the application.

Claims 1 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. in view of Levy et al.

Claims 5-7 and 10-12 have been canceled, without prejudice.

Claims 13-14 are newly added by this amendment.

II. THE 35 U.S.C. 103 REJECTION

After reviewing the most recent office action, applicants and their counsel respectfully requests that any further response issued by the examiner not be a final office action for the following reasons. In the most recent office action, the examiner correctly notes that Davis fails to teach transmitting the instruction set to a browser, receiving markup language assets, and rendering the markup language assets in synchronization with the received audio signal. However, in setting forth the rejection of claim 1, the examiner cites to a section of David which allegedly discloses "receiving markup language assets". As such, the examiner's rejection regarding this specific limitation is self contradicting and applicant is unable to properly respond to the rejection of the claim(s) since the examiner's true intent, and, accordingly, the scope of the rejection is indeterminate.

Claims 1-4 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. US 7,209,571, hereinafter "Davis", in view of Levy US 6505160, hereafter Levy, both references already record. Claim 1 has been amended to now recite "storing the metadata with associated the time data, the time data defining a start time and a duration, relative to the audio signal, of each markup language term of the instruction set, the time data synchronizing the metadata to the original audio signal" (claim 1, lines 7-9). Paragraph 8 of the application, as published, provides a basis for this amendment. In addition, claim 1 has been further amended to

now recite "rendering the markup language assets in synchronization with the received audio signal, *the synchronization matching the metadata to the original audio signal*" (claim 1, line12 11-9; *emphasis added*). Claims 2-5 have been canceled, without prejudice.

Davis teaches that the metadata can have a time stamp. The subject application discloses that the metadata has terms, each term have a start time and a duration. There is no duration data associated with the Davis watermarks, as disclosed. The Examiner's about the duration are not relevant. Two different watermarks as disclosed in Davis, with different time stamps, does not create some kind of "duration" data. Davis specifically states the various purposes of the time stamps. Davis does not teach, disclose or suggest relating time stamps together to find a duration for anything. As currently claimed, the terms within the metadata start times and have durations associated therewith. Applicants respectfully suggest that the Examiner's quotations from Davis regarding time stamps are taken out of context. The Examiner quotes "time stamp varies", but the actual statement in Davis (col. 18, line 48) states "the source of the time stamp varies", which has a different meaning altogether. Still, neither interpretation discloses the association of duration data with the watermarks of Davis. Levy fails to teach, disclose or suggest the teachings missing from Davis.

Davis further does not teach disclose or suggest the act of "rendering the markup language assets in synchronization with the received audio signal, the synchronizsation matching the metadata to the original audio signal." The act of adding metadata to watermarks to get information from a website, for example, as disclosed by Davis, does not anticipate or render obvious the acts of directly deriving metadata from an audio signal, storing starting time and duration data with each metadata term and rendering assets defined by the metadata term in synchronization with the audio signal at the appropriate start times and for the durations associated with each metadata term relative to the audio signal. Levy fails to teach, disclose or suggest the teachings missing from Davis.

Accordingly, applicants respectfully assert the claim 1, as well as its respective dependent claims, are patentable over the combined teachings of Davis and Levy. New claim 16 recites the limitations of the claim 1 and is likewise believed patentable for at least the same reasons as claim 1.

Claim 9 has been amended to cite limitations similar to that of claim 1 and is likewise believed patentable over the combined teachings of Davis and Levy for at least the same reasons as claim 1 as well as for the merits of its own respective limitations (claim 9, lines 6-8). Previously cancelled claim 11 has been reintroduced into the prosecution as new claims 13. Claim 10 has been canceled, without prejudice.

Claim 16 recites the limitations of the claim 1 and is likewise believed patentable for at least the same reasons as claim 1.

In light of the foregoing, applicants respectfully assert the claims 1, 9, and16 as well as their respective dependent claims, as applicable, are patentable over the combined teachings of Davis and Levy.

Applicants respectfully reassert all of the remarks and traversals set forth in prior response to the extent still relevant to the outstanding rejections of the claims. Specifically, Applicants further traverse such rejection on the grounds that the Examiner has failed to create a *prima facie* case of obviousness since there can be no reasonable expectation of success in the combination of the Davis and Levy teachings. Neither reference includes a teaching, suggestion or motivation as to how these disparate technologies would be combined to accomplish the subject matter as claimed. Accordingly, there can be no expectation of success in such combination.

III. CONCLUSION

In conclusion, in view of the above amendments and remarks, Applicants believe that the claims are now in condition for allowance, and respectfully request that the Examiner pass this case to issue. If after considering the above remarks and amendments, the Examiner is still not of the opinion that allowable subject matter is claimed, Applicants respectfully request a telephone interview with the Examiner and his/her respective Supervisory Patent Examiner to resolve any outstanding issues prior to issuance of any further office actions.

The Director of Patents and Trademarks is hereby authorized to charge the large-entity Request for Continued Examination fee, the two-month extension fee, and any deficiencies, or to credit any overpayments, to Deposit Account No. 03-2410 (Order No. 42551-100).

Respectfully submitted,
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